

AMENDED IN SENATE JUNE 11, 2007

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 937

**Introduced by Committee on Business and Professions (Eng (Chair),
Emmerson (Vice Chair), Bass, Carter, Hayashi, Hernandez,
Horton, Maze, Price, and Torrico)**

February 22, 2007

An act to amend Sections 5535, 5535.1, 5535.2, 5535.3, 5616, and 5640 of, and to add Section 5535.25 to, the Business and Professions Code, relating to architecture.

LEGISLATIVE COUNSEL'S DIGEST

AB 937, as amended, Committee on Business and Professions. Architects: landscape architects.

The Architects Practice Act provides for licensing and regulation of persons engaged in the practice of architecture by the California Architects Board. Existing law provides for the licensing of certain persons, as defined, to practice architecture and permits an architect to form a partnership with nonarchitects if certain conditions are met. Existing law requires architects to have responsible control, as defined, over certain aspects of practice. Existing law authorizes a corporation to furnish or supply by contract architectural services by and under the responsible control of a licensed architect or architects. Existing law makes it a crime for an unlicensed person to engage in certain activities related to architecture, for a person to make certain representations, or for a licensee in responsible control of plans, specifications, and instruments of service not to sign off on those documents.

This bill would revise the definition of a person for purposes of the Architects Practice Act to also include a partnership or a professional corporation and would specify that the term includes a general corporation rather than a corporation. The bill would permit an architect to form a business entity or ~~enter into a collaboration~~ *collaborate* with a nonarchitect as long as certain conditions are met and would define the terms “business entity” and “collaboration” ~~as to include~~ *as to include* an employer and employee relationship, a joint venture, a partnership, a general corporation, ~~or and~~ *and* a consulting relationship, as specified. ~~This~~ *The* bill would additionally revise the definition of “responsible control” to *mean* control over the content of all *architectural* instruments of service, rather than control over the content of technical submissions. ~~This~~ *The* bill would permit a corporation to furnish or supply by contract architectural services as long as any architects’ professional services; ~~as defined,~~ are offered and provided under the *responsible* control of a licensed architect or architects. *The bill would declare that its provisions shall not be construed to restrict or limit the scope of practice of a professional engineer or a professional land surveyor who forms a business entity or collaborates with one or more architects or a corporation providing architectural services.* Because this bill would expand the application of certain criminal provisions, it would impose a state-mandated local program.

Existing law provides for the licensure and regulation of landscape architects by the California Architects Board and makes it a misdemeanor for any person to, among other things, engage in the practice of landscape architecture without a valid, unrevoked license from the board. Existing law requires landscape architects to provide customers with detailed written contracts that include specified provisions, including, but not limited to, a description of the procedure that the landscape architect and client will use to accommodate additional services.

~~The~~

This bill would specify exceptions to that written contract requirement, would require that the contract be executed prior to the landscape architect commencing work, except as specified, and would require that the written contract also include a description of the procedure to be used by either party to terminate the contract. The bill would also specify that a written contract includes a contract in electronic form. In addition, this bill would make it a misdemeanor *for an unlicensed person* to use the stamp of a licensed landscape architect, as specified, or to advertise

or put out a device that might indicate to the public that he or she is a licensed landscape architect or qualified to engage in landscape architecture. Because the bill would create new crimes, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5535 of the Business and Professions
2 Code is amended to read:

3 5535. As used in this article, the word “person” includes any
4 individual, firm, partnership, general corporation, professional
5 corporation, or limited liability partnership, as authorized by the
6 Corporations Code.

7 SEC. 2. Section 5535.1 of the Business and Professions Code
8 is amended to read:

9 5535.1. The phrase “responsible control” means that amount
10 of control over the content of all *architectural* instruments of
11 service during their preparation that is ordinarily exercised by
12 architects applying the required professional standard of care.

13 SEC. 3. Section 5535.2 of the Business and Professions Code
14 is amended to read:

15 5535.2. ~~(a)~~—This chapter does not prevent an architect from
16 forming a business entity or collaborating with persons who are
17 not architects, provided that any architects’ professional services
18 that are provided through that entity or collaboration are offered
19 and provided under the responsible control of an architect, or
20 architects, and in accordance with the provisions of this chapter.

21 ~~(b) For purposes of this section, “architects’ professional~~
22 ~~services” means professional services that require the skills of an~~
23 ~~architect in the planning of sites, and the design, in whole or in~~
24 ~~part, of buildings, or groups of buildings and structures, and~~
25 ~~includes, but is not limited to, the services described in subdivision~~
26 ~~(b) of Section 5500.1.~~

SEC. 4. Section 5535.25 is added to the Business and Professions Code, to read:

5535.25. As used in this article, the terms “business entity” and “collaboration” include employer and employee relationships, joint ventures, partnerships, general corporations, and consulting relationships formed by written agreement in which the architect provides immediate and responsible direction, *as of architectural services. For purposes of this section, “immediate and responsible direction” has the same meaning as that term is defined in Section 151 of Title 16 of the California Code of Regulations.*

SEC. 5. Section 5535.3 of the Business and Professions Code is amended to read:

5535.3. (a) This chapter does not prevent a corporation from furnishing or supplying by contract architectural services, as long as any architects’ professional services are offered and provided under the responsible control of a licensed architect or architects.

(b) ~~For purposes of this section, “architects’ professional services” means professional services that require the skills of an architect in the planning of sites, and the design, in whole or in part, of buildings, or groups of buildings and structures, and includes, but is not limited to, the services described in subdivision (b) of Section 5500.1.~~

SEC. 6. Section 5616 of the Business and Professions Code is amended to read:

5616. (a) A landscape architect shall use a written contract when contracting to provide professional services to a client pursuant to this chapter. The written contract shall be executed by the landscape architect and the client, or their representatives, prior to the landscape architect commencing work, unless the client knowingly states in writing that work may be commenced before the contract is executed. The written contract shall include, but not be limited to, all of the following:

(1) A description of services to be provided by the landscape architect to the client.

(2) A description of any basis of compensation applicable to the contract, including the total price that is required to complete the contract, and the method of payment agreed upon by both parties.

(3) A notice that reads:

“Landscape architects are licensed by the State of California.”

1 (4) The name, address, and license number of the landscape
2 architect and the name and address of the client.

3 (5) A description of the procedure that the landscape architect
4 and client will use to accommodate additional services.

5 (6) A description of the procedure to be used by either party to
6 terminate the contract.

7 (b) This section shall not apply if the client knowingly states in
8 writing after full disclosure of this section that a contract that
9 complies with the requirements of this section is not required.

10 (c) This section shall not apply to any of the following:

11 (1) Professional services rendered by a landscape architect for
12 which the client will not pay compensation.

13 (2) An arrangement as to the basis for compensation and manner
14 of providing professional services implied by the fact that the
15 architect's services are of the same general kind which the architect
16 has previously rendered to and received payment from the same
17 client.

18 (3) Professional services rendered by a landscape architect to
19 any of the following:

20 (A) A landscape architect licensed under this chapter.

21 (B) An architect licensed under Chapter 3 (commencing with
22 Section 5500).

23 (C) A professional engineer licensed under Chapter 7
24 (commencing with Section 6700).

25 (D) A professional land surveyor licensed under Chapter 15
26 (commencing with Section 8700).

27 (E) A contractor licensed under Chapter 9 (commencing the
28 Section 7000).

29 (F) A geologist or geophysicist licensed under Chapter 12.5
30 (commencing with Section 7800).

31 (G) A manufacturing, mining, public utility, research and
32 development, or other industrial corporation, if the services are
33 provided in connection with, or incidental to, the products, systems,
34 or services of that corporation or its affiliates.

35 (H) A public agency.

36 (d) As used in this section, "written contract" includes a contract
37 that is in electronic form.

38 SEC. 7. Section 5640 of the Business and Professions Code is
39 amended to read:

1 5640. It is a misdemeanor, punishable by a fine of not less than
2 one hundred dollars (\$100) nor more than five thousand dollars
3 (\$5,000) or by imprisonment in the county jail not exceeding six
4 months, or by both that fine and imprisonment, for a person, ~~who,~~
5 *to do any of the following* without possessing a valid, unrevoked
6 license as provided in this chapter, ~~does any of the following:~~

7 (a) ~~Engages~~ *Engage* in the practice of landscape architecture.

8 (b) ~~Uses~~ *Use* the title or term “landscape architect”, “landscape
9 architecture,” “landscape architectural,” or any other titles, words,
10 or abbreviations that would imply or indicate that he or she is a
11 landscape architect as defined in Section 5615.

12 (c) ~~Uses~~ *Use* the stamp of a licensed landscape architect, as
13 provided in Section 5659.

14 (d) ~~Advertises or puts~~ *Advertise or put* out a sign, card, or other
15 device that might indicate to the public that he or she is a licensed
16 landscape architect or qualified to engage in the practice of
17 landscape architecture.

18 *SEC. 8. This act shall not be construed to restrict or limit the*
19 *scope of practice of a professional engineer or a professional land*
20 *surveyor who forms a business entity or collaborates with one or*
21 *more architects or a corporation providing architectural services.*

22 ~~SEC. 8.~~

23 *SEC. 9. No reimbursement is required by this act pursuant to*
24 *Section 6 of Article XIII B of the California Constitution because*
25 *the only costs that may be incurred by a local agency or school*
26 *district will be incurred because this act creates a new crime or*
27 *infraction, eliminates a crime or infraction, or changes the penalty*
28 *for a crime or infraction, within the meaning of Section 17556 of*
29 *the Government Code, or changes the definition of a crime within*
30 *the meaning of Section 6 of Article XIII B of the California*
31 *Constitution.*